

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SHARON CUEVAS HANSEN,)	3:06-CV-0653-HDM (VPC)
)	
Plaintiff,)	<u>MINUTES OF THE COURT</u>
)	
vs.)	December 17, 2007
)	
MARY MEYERS,)	
)	
Defendant.)	
_____)	

PRESENT: THE HONORABLE VALERIE P. COOKE, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: LISA MANN REPORTER: NONE APPEARING

COUNSEL FOR PLAINTIFF(S): NONE APPEARING

COUNSEL FOR DEFENDANT(S): NONE APPEARING

MINUTE ORDER IN CHAMBERS:

Plaintiff's motion to compel discovery (#27) was denied without prejudice for failure to meet and confer and for failure to provide certification that counsel have been unable to resolve the matter without court action pursuant to Fed.R.Civ.P. 37 and LR 26-7(b). Plaintiff's counsel stated in his affidavit that his "office contacted defense counsel in an effort to resolve the discovery dispute." (#27). The court found that certification does not satisfy the personal consultation requirement of Fed.R.Civ.P. 37 and LR 26-7(b). *Shuffle Master, Inc. v. Progressive Games, Inc.* 170 F.R.D. 166, 170 (D.C. Nev. 1996) (certification must "accurately and specifically convey to the court who, where, how, and when the respective parties attempted to **personally** resolve the discovery dispute.")

Plaintiff has now filed a second motion to compel discovery (#31). With this second motion, plaintiff's counsel filed an affidavit that is identical to the affidavit filed with his first motion. This affidavit again states that his "office contacted defense counsel in an effort to resolve the discovery dispute." (#31). Plaintiff also attached e-mails between defense counsel, Greg Addington, and Mr. McKenna's assistant, Andrea Avansino. *Id.* E-mail communication via an assistant does not satisfy the **personal consultation** requirement of Fed.R.Civ.P. 37 and LR 26-7(b). If plaintiff wants the court to consider the motion to compel, plaintiff's **counsel** (not his assistant) must **personally** consult with defense counsel. Therefore, plaintiff's second motion to compel discovery (#31) is **DENIED without prejudice**.

Plaintiff shall have one final opportunity to re-file the motion if counsel are unable to resolve the matter after following the dictates of Fed.R.Civ.P. 37 and LR 26-7(b).

IT IS SO ORDERED.

LANCE S. WILSON, CLERK

By: /s/
Deputy Clerk